(1) O.S. 1(a) (B)

IN THE HIGH COURT OF JUDICATURE OF CHHATTISGARH

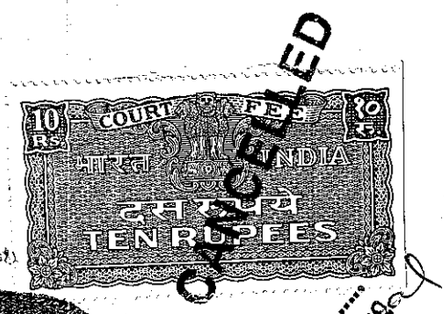
BILASPUR

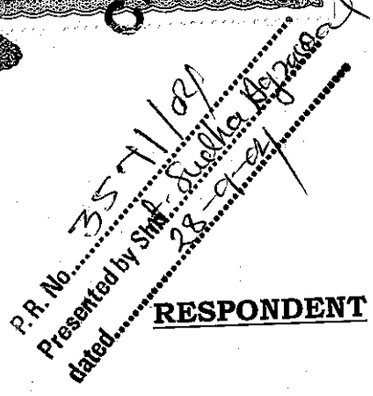
W.P. NO.3647/2004-

PETITIONER:

1. Biharilal Ji Mandir Math Para Durg Distt. Durg, a registered public trust, registered under Chhattisgarh Public Trust Act, through, its sarwarakar Murli Manohar Tiwari, s/o late Mohanlal Tiwari, aged about 39 years, resident of Chhota Math Mandir, Math Para, Durg',

2. Murli Manohar Tiwari, s/o late Mohanlal Tiwari, aged about 39 years, resident of Chhota Math Mandir, Math Para, Durg',





VERSUS

RESPONDENT

1. Smt. Jamuna Bai widow of Kashiram Dewangan aged 50 years, resident of Math Para Durg.
2. 'Ist Civil Judge Class II Durg.'

WRIT PETITION UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA

(45)

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक WP 3647/04 सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	28-10-2004 Dr. N.K. Shukla, Senior Advocate with Smt. Sudha Agrawal, Advocate for the petitioners. The petitioners have preferred this writ petition under Article 227 of the Constitution of India challenging the order dated 1-7-2004 passed by the First Civil Judge, Class-I, Durg, in Execution Case No.82-A/1981. In the said execution case judgment debtor i.e. the petitioner No.2 herein moved an application under Section 151 of the C.P.C. and submitted that he is a tenant of Biharilal Ji Mandir. It was also stated that the matter is pending before the High Court for decision whether the property in question is public trust or private property. Learned trial Court after hearing the parties, reached to the conclusion that decree for eviction against the petitioner No.2 herein was passed in favour of the respondent No.1 by the trial Court and the appellate Court also dismissed the same. Thereafter, the petitioner No.2 herein filed an appeal before the High Court and the High Court dismissed the appeal of the petitioner No.2 on 9-5-88. Therefore, respondent No.1 has moved for execution of the said decree. I have heard learned counsel for the petitioner.	

[पीछे देखिये

(46)

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Learned counsel for the petitioners submitted that the petitioner No.2 is the tenant of the petitioner No.1, therefore, decree cannot be executed against him which has been passed in favour of respondent No.1.

In view of the impugned order, I am of the opinion that there is no substance in this contention that the Executing Court has already recorded that the eviction decree in favour of respondent No.1 and against the petitioner No.2 has been confirmed by the High Court in Civil Appeal No.537/85.

Therefore, I do not find any illegality in the impugned order. The writ petition is liable to be dismissed and the same is dismissed at the admission stage itself.

Sd/-
L.C.BHADOO
Judge

[पीछे देखिये